

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

NICHOLAS APRIL, )  
v. Plaintiff, ) Civil Action No. 06-68 Erie  
SUPERINTENDENT MARILYN )  
BROOKS, et al., )  
Defendants. )

**MEMORANDUM ORDER**

Plaintiff's civil rights complaint was received by the Clerk of Court on March 20, 2006 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's report and recommendation [47], filed on April 16, 2008, recommends that Defendants' Motion to Dismiss Second Amended Complaint [42] be granted. The parties were allowed ten (10) days from the date of service to file objections. Plaintiff filed his objections to the report and recommendation [48] on May 6, 2008.

After de novo review of the Amended Complaint and the documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 30<sup>th</sup> Day of May, 2008, IT IS HEREBY ORDERED that the Defendants' Motion to Dismiss Second Amended Complaint [42] be, and hereby is, GRANTED.

The Report and Recommendation of Chief Magistrate Judge Susan Paradise Baxter [47] filed on April 16, 2008, is adopted as the opinion of this Court.

s/ Sean J. McLaughlin  
SEAN J. McLAUGHLIN  
United States District Judge

cm: all parties of record  
Chief Magistrate Judge Susan Paradise-Baxter